MONTANA LEGISLATIVE HISTORY

Chapter 205 1999

Bill H 429 S _____ Original bill & history ✓ C

H. Committee on Natural Resources			S. Committee on Natural Resources		
Hearing Date(s)	_____	___C	Hearing Date(s)	_____	___C
	2/12	✓ C		3/15	✓ C
	_____	___C		_____	___C
	2/15	✓ C		3/17	✓ C
Date Out	2/15	✓ C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

HB 425 Introduced by Mangan, et al. *LC0752 Drafter: MacMaster*

Provide for an Injunction Against an Owner of Property at Which a Drug-related or Criminal Street Gang Activity Nuisance Exists

1/29 Introduced and 1st Reading
1/29 Referred to Judiciary
2/03 Hearing
2/08 Tabled in Committee
2/11 Tabled in Committee
3/01 Missed Deadline for General Bill Transmittal

HB 426 Introduced by Jore *LC0647 Drafter: McClure*

Amend the State-tribal Cooperative Agreements Act to Clarify the Required General and Detailed Contents;...

1/29 Introduced and 1st Reading
1/29 Referred to Judiciary
1/29 Fiscal Note Requested
2/04 Fiscal Note Received
2/05 Fiscal Note Printed
2/09 Hearing
2/11 Tabled in Committee
3/01 Missed Deadline for General Bill Transmittal

HB 427 Introduced by Jore *LC0814 Drafter: Kurtz*

Terminate the State-tribal Hunting and Fishing Cooperative Agreement Between the Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation and the State of Montana;...

1/29 Introduced and 1st Reading
1/29 Referred to Fish, Wildlife, and Parks
2/09 Hearing
2/09 Tabled in Committee
3/01 Missed Deadline for General Bill Transmittal

HB 428 Introduced by B. Thomas, et al. *LC1289 Drafter: MacMaster*

Prohibit Insurance Discrimination for Treatment of the Muscles, Bones, or Joints of the Jaw and Face That Is Medically Necessary for Treatment of Temporomandibular Dysfunctions;...

1/29 Introduced and 1st Reading
1/29 Referred to Business and Labor
2/02 Hearing
2/05 Tabled in Committee
3/01 Missed Deadline for General Bill Transmittal

HB 429 Introduced by Shockley, et al. *LC0951 Drafter: K. Williams*

Temporarily Close Subbasins of the Bitterroot River Basin to Further Appropriations and Reservations, Except for Ground Water, Municipal, and Emergency Appropriations and Some Seasonal Storage;...

1/29 Introduced and 1st Reading
1/29 Referred to Natural Resources

2/12	Hearing		
2/16	Committee Executive Action--Bill Passed as Amended	20	0
2/16	Committee Report--Bill Passed as Amended		
2/19	2nd Reading Passed as Amended	96	2
2/22	3rd Reading Passed	95	3
	Transmitted to Senate		
2/23	Referred to Natural Resources		
3/15	Hearing		
3/18	Committee Executive Action--Bill Concurred	10	0
3/18	Committee Report--Bill Concurred		
3/22	2nd Reading Concurred	49	0
3/23	3rd Reading Concurred	48	0
	Returned to House		
3/24	Sent to Enrolling		
3/24	Returned from Enrolling		
3/26	Signed by Speaker		
3/26	Signed by President		
3/29	Transmitted to Governor		
3/29	Signed by Governor		
3/30	Chapter Number Assigned		
	Chapter Number 205		
	Effective Date: 3/29/1999 - All Sections		

HB 430 Introduced by Squires, et al. *LC0877 Drafter: Fox*

Clarify That a Worker May Choose an Initial Treating Physician Even If a Preferred Provider Organization Is in Place;...

1/29	Introduced and 1st Reading		
1/29	Referred to Business and Labor		
2/02	Hearing		
2/05	Committee Executive Action--Bill Passed as Amended	18	0
2/06	Committee Report--Bill Passed as Amended		
2/09	2nd Reading Passed	92	6
2/10	3rd Reading Passed	90	8
	Transmitted to Senate		
2/23	Referred to Public Health, Welfare and Safety		
3/15	Hearing		
3/16	Committee Executive Action--Bill Concurred as Amended	8	0
3/16	Committee Report--Bill Concurred as Amended		
3/17	2nd Reading Concurred	49	0
3/17	Segregated from Committee of the Whole Report	49	0
3/18	2nd Reading Concurred	48	0
3/19	3rd Reading Concurred	44	0
	Returned to House with Amendments		
4/10	2nd Reading Senate Amendments Concurred	92	4
4/12	3rd Reading Passed as Amended by Senate	95	4
4/12	Sent to Enrolling		
4/14	Returned from Enrolling		
4/14	Signed by Speaker		
4/15	Signed by President		
4/16	Transmitted to Governor		
4/26	Signed by Governor		

House BILL NO. 429

INTRODUCED BY S Huckley
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT TEMPORARILY CLOSING THE BITTERROOT RIVER BASIN TO FURTHER APPROPRIATIONS AND RESERVATIONS, EXCEPT FOR GROUND WATER, MUNICIPAL, AND EMERGENCY APPROPRIATIONS AND SOME SEASONAL STORAGE; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Bitterroot River basin temporary closure -- definitions -- exceptions.** (1) Unless the context requires otherwise, in this section, the following definitions apply:

(a) "Application" means an application for a beneficial water use permit pursuant to 85-2-302 or a state water reservation pursuant to 85-2-316.

(b) "Bitterroot River basin" means the drainage area of the Bitterroot River and its tributaries above the confluence of the Bitterroot River and Clark Fork of the Columbia River and designated as "Basin 76H".

(2) As provided in 85-2-319, the department may not process or grant an application for a permit to appropriate water or for a state water reservation within the Bitterroot River basin until the basin closure is terminated pursuant to subsection (3) of this section, except for:

(i) an application for a permit to appropriate ground water;

(ii) an application for a permit to appropriate water for a municipal water supply;

(iii) temporary emergency appropriations pursuant to 85-2-113(3); or

(iv) an application to store water during high spring flow in an impoundment with a capacity of 50 acre feet or more.

(3) The Bitterroot River basin is closed to new appropriations and new state water reservations until 2 years after issuance of a preliminary decree for the basin pursuant to Title 85, chapter 2, part 2.

NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 3. Applicability.** [This act] applies to all applications received by the department of natural resources and conservation after [the effective date of this act].

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN BILL TASH**, on February 12, 1999 at 3:00 P.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Rep. Bill Tash, Chairman (R)
Rep. Cindy Younkin, Vice Chairman (R)
Rep. Aubyn A. Curtiss (R)
Rep. Rick Dale (R)
Rep. Bill Eggers (D)
Rep. Ron Erickson (D)
Rep. David Ewer (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Dan McGee (R)
Rep. Douglas Mood (R)
Rep. Karl Ohs (R)
Rep. Scott J. Orr (R)
Rep. Bob Raney (D)
Rep. Bob Story (R)
Rep. Jay Stovall (R)
Rep. Carley Tuss (D)
Rep. Doug Wagner (R)

Members Excused: Rep. Hal Harper, Vice Chairman (D)
Rep. Rod Bitney (R)

Members Absent: None.

Staff Present: Deb Thompson, Committee Secretary
Kathleen Williams, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 520, HB 429, 2/9/1999
Executive Action: HB 486; HB 487; HB 505

Closing by Sponsor: Rep. Erickson closed. He pointed out the concern addressed by the bill was the down gradient. ***{Tape : 1; Side : B}***

HEARING ON HOUSE BILL 429

Sponsor: Rep. Jim Shockley, HD 61, presented the bill and amendments. **EXHIBIT(9)** He explained this bill dealt with the temporary closure of the Bitterroot Basin for a two year period. The water in the basin is over appropriated. This is the fastest growing county in the state and subdivisions are cropping up quickly. There is a lot of pressure on water users. The bill will stop further filing for permits. He distributed testimony from Ravalli County. **EXHIBIT(10), EXHIBIT(11)**

Proponents: Bud Clinch, Director of Department of Natural Resources and Conservation, spoke in favor of the bill. He explained the DNRC was Montana's water management agency. The bill was initiated from the basin residents to address the challenges facing them. He clarified the bill would temporarily close surface water sources in this basin and the development of most new water rights. It would continue to allow for emergency appropriations of surface water. It would allow for water storage facilities and would allow for the development of municipal water sources. The bill would not limit or restrict the development of ground water resources. It would not limit the statutory processes which allow stream line water development on small yield wells of less than 35 gallons per minute and 10 acre feet and it does not limit, restrict or imped the ongoing process to inventory and adjudicate Montana's water rights through the Water Court. **EXHIBIT(12)** ***{Tape : 1; Side : B; Approx. Time Counter : 5.8 - 8.1}***

Pat Graham, Executive Director of Fish, Wildlife and Parks, spoke as a proponent. He pointed out the significant droughts in the basin and the need for cooperative management of the water. **EXHIBIT(13)** ***{Tape : 1; Side : B; Approx. Time Counter : 10.6}***

Holly Franz, representing Montana Power Company, spoke in favor of the bill. The Montana Power Company has one dam downstream from the Bitterroot which is Thompson Falls Hydroelectric Dam. The company agrees that the Bitterroot is over appropriated. One indication of some of the water rights problems is the division of the sub-basin into smaller basins because of the large number of water rights problems they have had with subdivisions and allocation of those water rights. ***{Tape : 1; Side : B; Approx. Time Counter : 12.3}***

Harley Haskett, a farmer in the district for 28 years, spoke in favor of the legislation. He was an irrigation district board member and on the Bitterroot Water Forum. He noted the first homicide in Montana occurred in the Bitterroot valley over water, and it was justified, he joked. ***{Tape : 1; Side : B; Approx. Time Counter : 12.6 - 14.4}***

Robert Christ, a rancher and irrigator and Master of the Rocky Mountain Grange, testified for the bill. He said it was a bill whose time had come and was needed. Presently, the situation is creating problems among neighbors.

Howard Lyons, Secretary Treasurer of the Bitterroot Stockgrowers, spoke in support of the bill. He noted the association had a membership of approximately 100 families. He said they had the same feelings that permitting should be stopped until the courts catch up to how much water they have and what has happened to it. They hope the intention of the bill remains intact.

Marshall Bloom, representing Bitterroot Trout Unlimited, spoke as a proponent. He distributed his testimony. **EXHIBIT(14)**

Jennifer Salisburg, Montana Stockgrowers Association, supported the bill.

James Olson, Friends of the Bitterroot, spoke for the bill. He said their conservation group was happy to see this bill. September 9, 1805, Meriwether Lewis wrote "a handsome stream, about 100 yards wide, affords a considerable quantity of very clear water", that was when he was on the Bitterroot River. He pointed out the bill would help keep it that way especially during low water season.

Brian Langton, a fourth generation irrigator and the Chairman of the Bitterroot Water Cooperative, testified for the bill. The Coop represents 1500 families, irrigating 30 thousand acres combined. He stressed the importance of protecting historical rights. He described problems related to the creation of a 24 acre pond. Senior water right holders could not draw water from the stream due to this diversion.

Roxa French, Bitterroot Water Forum Project Coordinator, testified on the bill. She explained the river had nearly 3/4th of the area under federal management. Private water use was a narrow corridor of the valley water. Annual valley precipitation is about 12". Surface and ground water are highly interrelated. The group is in favor of the temporary closure of the basin.

Charles Van Hook, a consulting biologist working in wetland restoration and conservation, spoke in favor of the bill. He said reconfiguration of surface water movement had diminished the seasonal availability of water to wetland sites. Nearly all water which moves across the valley is now part of an irrigation system and these systems are not designed to preserve wetlands. He had amendments attached to his testimony. **EXHIBIT(15)** ***{Tape : 1; Side : B; Approx. Time Counter : 21.3}***

Mike Murphy, representing Montana Water Resources Association, said the association wanted to go on record supporting the bill. He said it was highly likely that the basin has reached a permitting limit for larger surface rights. The association was concerned there be an exception for livestock water rights for small use permits.

Dave Jones, from Hamilton and a member of the Bitterroot Water Forum, spoke in support of the bill. He has been a trout fishing guide for over 15 years and demonstrated how the recreation industry relies on the water. ***{Tape : 1; Side : B; Approx. Time Counter : 26.3}***

Bob Banner from the Charlo Irrigation District urged passage of the bill and the amendments. He said he was concerned about costs that are created if the bill is not passed, through monitoring and costs to DNRC for special hearing units.

Rob Johnson, one of the organizers of the Bitterroot Water Forum that started out four years ago, spoke in favor of the bill. The bill would provide for the necessary time and alleviates an increasing problem as more people move to the area.

Opponents: David Schmidt, a water rights consultant in Helena, spoke on behalf of Water Rights, Inc. and Mr. Lee Gellen of Missoula who works extensively in the Bitterroot, against the bill. He presented testimony from Mr. Gellen. **EXHIBIT(16)** Gellen presented issue statements with supporting data, (see exhibit). The bill should exempt domestic uses. His consulting firm represents 70% of the largest farms and ranches in the valley and none of his clients support closure. ***{Tape : 1; Side : B; Approx. Time Counter : 31.1 - 35.7}***

Questions from Committee Members and Responses: Rep. Younkin asked Jack Stultz from DNRC to address the exemption to store water during high spring flow. She asked if applications were accepted for storage. Stultz replied this was not a problem. Storage is a component of a water right and a component of another use. Rep. Younkin asked about adding an exception for an

application for a non-consumptive use. Rep. Shockley said that was not a problem.

Rep. Raney asked about support for wetlands. Rep. Shockley replied much of the wetlands existed in part from irrigation. The valley was a desert during the Lewis and Clark expedition. He pointed out if there was no more water to irrigate there was no more water to make wetlands. If there were, they could do it with a 50 acre impoundment for beneficial use.

Rep. Ewer asked Mr. Stultz about the conflicting testimony and if it was his opinion that the basin was over subscribed or was the issue backlogged adjudication. Stultz replied the Bitterroot Basin had a history of conflict over water availability. This was not a question of a slow adjudication process but was a question of water availability and conflict over the water.

Rep. Tash pointed out in accordance with the Montana Water Use Act, irrigators were advised to file on every optimum drop of water.

Rep. Stovall asked about the concerns regarding livestock having priority during a drought over irrigation rights. Rep. Shockley replied this did not address federal water rights. Mike McGlenn, a water shed planner working with the Bitterroot Water Forum, described other basin closures in the state. When looking at the Bitterroot Basin, between existing filings and the fact that stock water is an exempt use. If it is a place where cows have grazed there is probably already a right there. Virtually everyone has already filed on their stock water. ***{Tape : 1; Side : B; Approx. Time Counter : 49.9 - 50.8}***

Closing by Sponsor: Rep. Shockley closed. He pointed out people with a weak right could file now. He pointed out domestic use had only 17 domestic use permits in the whole valley, after 1973. You cannot get a loan on a house by using surface water.

EXECUTIVE ACTION ON HOUSE BILL 486

Rep. Younkin **MOVED DO PASS**. She distributed an amendment that would address department approval of institutional controls. She **MOVED** the amendment. The question was called. The motion **PASSED** unanimously. **EXHIBIT(17)** ***{Tape : 2; Side : A}***

Rep. Younkin **MOVED DO PASS AS AMENDED**. She discussed institutional controls in general and they may have been perceived as a substitute for cleaning up the problem, and they are not. She referred to the statute that required that remedial

to make sure they cleaned up the slash and the roads put back. Williams said this was tailored to the timber sales. The bond has to equal the potential loss to the state. Rep. Tash pointed out the equal bonding would provide for a fair bidding process. This optimizes the return to the School Trust Lands, whether it be timber or conservation license.

Rep. Hurdle said she thought the conservation licenses were going to be encouraged where people thought they were appropriate. Rep. Younkin pointed out the reason for the bond was to make sure a license holder would pay. This would protect the loss to the School Trust. Rep. Raney noted this did not seem to fit under controlling slash, since the bond being required of a conservation license was for something you were not going to do. Rep. Harper thought the department should pass a rule to clarify this. The law was not tailored for a timber conservation license. ***{Tape : 2; Side : B; Approx. Time Counter : 7.2 - 11.0}***

Rep. McGee noted the purchaser of a conservation license are required to pay the fees for forest improvement that are included in the terms of the sale bid. This refers to the basis for the bond to begin and what it may include. The details are worked out in the terms of the sale bid. ***{Tape : 2; Side : B; Approx. Time Counter : 11.2}***

Rep. Tash commented that the purpose of the bill is to encourage conservation easements in lieu of timber sale.

Rep. Wagner said he would resist the amendment. He pointed out that Director Clinch was serious about administering the School Trust Land. The conservation easement would only be ten years and then the timber sale would come up again. The terms of the timber sale would take care of improving water quality, road repair, culvert enhancement, or stream bank restoration. Rep. Tash noted the timber is still growing but in the interim there has to be proper management of the resource.

The question was called on the bill as is. The motion **PASSED** 14-6.

EXECUTIVE ACTION ON HOUSE BILL 429

Rep. Younkin **MOVED DO PASS.** She explained amendment #2904. She **MOVED** the amendment. The amendment would allow for a new permit for non-consumptive use and the burden would be on the applicant to prove a need. The question was called. The motion **PASSED** unanimously.

Rep. Younkin proposed a second set of amendments that had been distributed by Rep. Shockley at the hearing. These amendments includes the entire basin but breaks them down by sub-basin through the adjudication process, then the two year period would start. The question was called. The motion **PASSED** unanimously. ***{Tape : 2; Side : B; Approx. Time Counter : 42.5}***

Rep. Younkin **MOVED DO PASS AS AMENDED.** The question was called. The motion **PASSED** unanimously.

EXECUTIVE ACTION ON HOUSE BILL 539

Rep. Younkin **MOVED DO PASS.** Rep. Tash noted this would remove the requirement that a member from the Governor's staff appointed to the Flathead Basin Commission serve as Executive Director, allowing the commission to hire staff.

Rep. Dale pointed out the need for the staff to be in the community rather than in the Governor's Office. Rep. Ohs said the Commission already has a high profile. They are just asking that the person does not have to be the Executive Director. Local control is better.

The question was called. The motion **PASSED** 13-7, with Reps. McGee, Curtiss, Hurdle, Erickson, Harper, Gutsche and Raney voting no.

EXECUTIVE ACTION ON HOUSE BILL 458

Rep. Ohs explained the amendments were from Mr. Blomquist. ***{Tape : 2; Side : B; Approx. Time Counter : 58.3}***

Rep. Tash noted this was a product of the EQC dealing with stream management practice. The BMP's have been demonstrated to be effective policy and then this addresses voluntary practice. ***{Tape : 3; Side : A}***

The question was called on the Blomquist Amendment. The motion **PASSED**, 16-4, with Reps. Erickson, Tuss, Gutsche and Hurdle voting no.

Rep. Younkin **MOVED** the bill as amended. Rep. Harper commented the bill would be valuable. The EQC works wonders without fanfare. The forest products industry has produced good BMP's. The TMDL's will impact other money making activities. Rep. McGee felt the concept of "stakeholders" should say "interested

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN WILLIAM CRISMORE**, on March 15, 1999 at 3:15 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. William Crismore, Chairman (R)
Sen. Vicki Cocchiarella (D)
Sen. Mack Cole (R)
Sen. Lorents Grosfield (R)
Sen. Tom Keating (R)
Sen. Bea McCarthy (D)
Sen. Ken Miller (R)
Sen. Glenn Roush (D)
Sen. Mike Taylor (R)
Sen. Bill Wilson (D)

Members Excused: Sen. Dale Mahlum, Vice Chairman (R)

Members Absent: None.

Staff Present: Larry Mitchell, Legislative Branch
Jyl Scheel, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 298, 3/15/1999; HB 183, 3/15/1999; HB 429, 3/15/1999; HB 458, 3/15/1999

Executive Action: None

HEARING ON HB 298

Sponsor: **REPRESENTATIVE DAN FUCHS, HD 15, BILLINGS**

Jill Andrews, Montana Mining Association, spoke in support of the bill. They have one remaining concern and will offer an amendment prior to Executive Action.

Jeff Barber, Montana Environmental Information Center, spoke in support of the bill. They support the changes to the bonding requirements. They like the clarification on the dredging language and urge the committee's support.

Aaron Browning, Northern Plains Resource Council, spoke in support of the bill. They appreciate the effort that has gone into making this a consensus bill and encourage the committee's support.

Opponents' Testimony: **None.**

Questions from Committee Members and Responses: **None.**

Closing by Sponsor:

REPRESENTATIVE RICK DALE, HD 39, WHITEHALL, commended all the people who had worked so hard on the bill to bring it into its present form. He thanked the committee for a good hearing and urged the committee's support.

{Tape : 1; Side : B; Approx. Time Counter : 0 - 20.7; Comments : None.}

HEARING ON HB 429

Sponsor: **REPRESENTATIVE JIM SHOCKELY, HD 61, VICTOR**

Proponents:

Jack Stultz, Water Resources Division, Department of Natural Resources and Conservation
Patrick Graham, Director, Department of Fish, Wildlife & Parks
Brian Langton, President, Water Coop of Bitterroot
Harvey Hackett, Stevensville
Roxa French, Bitterroot Water Forum
Marshall Bloom, Trout Unlimited
Mike Murphy, Montana Water Resources
Holly Franz, Montana Power Company
Dave Jones, Water Forum member
John Mundinger, Montana Stockgrowers Association
Jim Olson, President, Friends of the Bitterroot
Howard Lyons, Secretary/Treasurer, Bitterroot Stockgrowers

Bob Banner, Charlos Irrigation District
Jack Fou, Stevensville
Rob Johnson, Hamilton, Bitterroot Water Forum member

Opponents:

Brandi Watts, Water Rights, Inc.

Opening Statement by Sponsor:

REPRESENTATIVE JIM SHOCKELY, HD 61, VICTOR, presented **HB 429** which is a bill to temporarily close the Bitterroot River Basin. The basin starts west of Missoula where the Bitterroot comes into the Clark Fork of the Columbia and runs south to the Idaho line. The problem in the Bitterroot is there is no more water for appropriation. As people move into the valley and buy property, they think they have a right to have a pond or irrigate, etc. That is not Montana law. They file on water that does not exist. This bill puts a stop on further appropriation of surface water until the basin closure is terminated. The sub-basins will be opened two years after the state's rights are adjudicated which will be in about three years and in two years the basin could be opened unless the legislature acted. When the basin opens, if there is any water left, the people can file for a right. He passed out letters of support for the committee's reference **EXHIBIT(7)**.

Proponents' Testimony:

Jack Stultz, Water Resources Division Administrator, Department of Natural Resources and Conservation, spoke in support of the bill as per **EXHIBIT(8)**.

Patrick Graham, Director, Department of Fish, Wildlife & Parks, spoke in support of the bill as per **EXHIBIT(9)**.

Brian Langton, President, Water Co'op of Bitterroot, stated he is a fourth generation irrigator in the Bitterroot Valley. The Co'op represents 1500 families that irrigate about 30,000 acres. The only nonconsumptive use of water is pouring one glass of water into another. When you put water into a pond seepage takes place, evaporation takes place and evapo-transpiration takes place. These all consume water. If water is given to a junior right pond it takes away from a senior right holder who is not able to irrigate his land. He encouraged support of the bill.

Harvey Hackett, Stevensville, said he has irrigated in the Bitterroot since 1960. He has served on the Board of the Bitterroot Irrigation District and they support the bill.

Roxa French, Part-time Project Coordinator for the Bitterroot Water Forum, stated the Forum was formed four to five years ago by a group of citizens that felt the Basin stakeholders were the best ones to develop needed policies about water in the Bitterroot. To that end they have developed a mission to learn about their annual water cycle and interrelationship between the surface water and ground water in the Basin. **HB 429** was brought forward by water users and evolved through the forum's consensus process. The bill is citizen driven and consensus based. They urge the committee's support.

Marshall Bloom, Trout Unlimited, spoke in support of the bill as per **EXHIBIT(10).**

{Tape : 1; Side : B; Approx. Time Counter : 20.7 - 42; Comments : None.}

Mike Murphy, Montana Water Resources, spoke in support of the bill. Considering the level of appropriations they feel it is appropriate the basin be closed at this point. This will allow time to get through the adjudication process to be more aware of the water situation in the basin.

Holly Franz, Montana Power Company, spoke in support of the bill and stated **MPC** has significant year-round water rights downstream from the Bitterroot at Thompson Falls. These water rights are never fully satisfied in the winter.

Dave Jones, Water Forum member, stated it was his belief there was no new water to be appropriated from the Bitterroot. Any new appropriation would definitely affect either an existing water right holder, aquatic resource or the quality of their water. He encouraged support of the bill.

John Mundinger, Montana Stockgrowers Association, stated they appreciate the manner in which this legislation was developed and they support **HB 429.**

Jim Olson, President, Friends of the Bitterroot, stated they are an environmental group devoted to sustained use of the resources. He complimented the Water Forum for bringing all interests together on the same plate to support the bill.

Howard Lyons, Secretary/Treasurer, Bitterroot Stockgrowers, spoke in support of the bill as per **EXHIBIT(11).**

Bob Banner, Charlos Irrigation District, spoke in support of the bill as per **EXHIBIT(12).**

Jack Fou, Stevensville representing three Ditch Companies, spoke in support of **HB 429.**

Rob Johnson, Hamilton, Bitterroot Water Forum member, spoke in support of the bill and referenced a letter from Vernon Woolsey who is a 15 year water commissioner in the Bitterroot **EXHIBIT(13).**

Opponents' Testimony:

Brandi Watts, Lee Allen Water Rights, Inc., stated they are a natural resource consulting firm and are responsible for running the notice in the ***Ravalli Republic*** last week. Since they ran the notice they have gotten 40-50 calls per day from water users in the Bitterroot Valley who were either unaware of the closure or were concerned that the closure would go into effect on them negatively. They do not oppose the closure and feel it is needed, they would like to see some language added to it to protect water users. Two of their main concerns are that the phone calls they are receiving are from people going through the adjudication process right now and they would like the enactment date of the closure not to occur until the adjudication is in preliminary decree. The decree would then be enforceable. They would also like to see non-consumptive uses excluded from the closure.

Questions from Committee Members and Responses: **None.**

Closing by Sponsor:

REPRESENTATIVE JIM SHOCKELY, HD 61, VICTOR, stated the support is overwhelming because it is good for the irrigators and it is good for the fisherman who want the instream flow. Wetlands are not threatened. This does not affect any present use. This only affects new appropriations. It is a good bill with broad support and he encourages the committee's concurrence.

{Tape : 2; Side : A; Approx. Time Counter : 0 - 11; Comments : None.}

HEARING ON HB 458

Sponsor: **REPRESENTATIVE KARL OHS, HD 33, HARRISON**

Proponents:

Jerry Wells, Montana Council of Trout Unlimited
Janet Ellis, Montana Audubon Society

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON NATURAL RESOURCES

Call to Order: By **CHAIRMAN WILLIAM CRISMORE**, on March 17, 1999 at 3:10 P.M., in Room 405 Capitol.

ROLL CALL

Members Present:

Sen. William Crismore, Chairman (R)
Sen. Dale Mahlum, Vice Chairman (R)
Sen. Vicki Cocchiarella (D)
Sen. Mack Cole (R)
Sen. Lorents Grosfield (R)
Sen. Tom Keating (R)
Sen. Bea McCarthy (D)
Sen. Ken Miller (R)
Sen. Glenn Roush (D)
Sen. Mike Taylor (R)
Sen. Bill Wilson (D)

Members Excused: None.

Members Absent: None.

Staff Present: Larry Mitchell, Legislative Branch
Jyl Scheel, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 539, 3/17/1999; HB 596, 3/17/1999; HB 617, 3/17/1999
Executive Action: HJ 11; HJ 8; HJ 17; HB 429; HB 96; HB 346; HB 485; HB 539

HEARING ON HB 539

Sponsor: REPRESENTATIVE PAUL SLITER, HD 76, SOMERS

Wilson voting no. **SENATOR KEATING** will carry the bill to the Senate Floor.

EXECUTIVE ACTION ON HB 429

Motion/Vote: **SEN. KEATING** moved that **HB 429 BE CONCURRED IN.** **Motion carried 10-0.** **SEN. THOMAS** will carry bill to the Senate Floor.

{Tape : 1; Side : B; Approx. Time Counter : 14.3 - 22; Comments : None.}

EXECUTIVE ACTION ON HB 340

Motion: **SEN. TAYLOR** moved that **HB 340 BE CONCURRED IN.**

Motion: **SEN. TAYLOR** moved that **AMENDMENTS HB034001.ALM BE ADOPTED.**

Discussion:

Mr. Mitchell explained the amendments. They change the term registered surveyor to licensed surveyor in certain places. They specify more clearly in Section 1(1)(b) precisely what has to be done once a monument is proposed or anticipated to be destroyed. There is a more specific duty placed upon a person that plans or anticipates destroying a monument. They must do this recordation process. The other important amendment basically exempts the Department of Highways and Department of Transportation from complying with requirements in (2).

SENATOR GROSFIELD questioned why they do not need to do the recordation process on private land? He said they are excluding the **Department of Transportation** and anybody else has to do it. He is not certain **DOT** should be able to get out this.

SENATOR KEATING stated he suspected **DOT** already does it. When they are planting highways, they are moving monuments and marking along the right of way. He has seen them surveying all the time.

Mr. Mitchell stated the provision he thinks **DOT** objects to is the hiring out or engaging of a licensed surveyor to do this work. They would prefer to leave it to their own devices.